IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13570 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAVINKANT PRANLAL SHUKLA - Petitioner(s)
Versus
SECRETARY & 1 - Respondent(s)

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Appearance :
MR AR THACKER for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 28/07/2006

ORAL JUDGMENT

1. The petitioner is an ex-teacher. He had tendered his resignation on 24th September 1976. It is his case that he resigned on account of

his ill health. However, the authorities accepted his resignation and it was not a retirement on medical ground. The petitioner claims pension from the Government. The petitioner made several representations to the authorities, some of them were turned down. The petitioner also wrote letters to the Chief Minister. Since the petitioner did not receive pension, he has filed the present petition.

2. I am afraid, the petitioner is not entitled to pension. Firstly, he had not retired from service, but tendered his resignation. By now it is well settled that person who tenders his resignation cannot seek pensionary benefits. Reference in this regard may be made to the decision of the Hon'ble Supreme Court in the case of Uco Bank v. Sanwar Mal, (2004) 4 SCC 412. The Government, therefore, was justified in not granting pension to the petitioner. It is not in dispute that the petitioner never was permitted to retire on voluntary basis or on medical grounds permitting him to seek invalid pension.

3. There is yet another difficulty in the way of the petitioner in seeking pension. The respondents have stated that the Government introduced rules for voluntary retirement for teaching staff of the secondary schools only in the year 1977 and by that time the petitioner had already retired. In that view of the matter, the petitioner's claim for pension is not justified.

4. The petitioner has contended that under similar circumstances in case of one Shri H.M.Joshi, the Government had granted pension. The respondents have filed affidavit stating that because of passage of time, the Government could not collect sufficient records to comment on this averment of the petitioner. In view of this the petitioner cannot claim parity. Primarily, the petitioner has to establish his own right to receive pension. When I find that the same is not based on any rules or regulations, the prayers made in the petition cannot be granted. The petitioner has also filed this petition after considerable delay. It is not that this

petition is being rejected on the ground of delay and laches, but the respondents cannot be blamed for being not able to find out the full details about the case of Shri Joshi.

5. In the result, the petition fails and is hereby rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

(vjn)